

CERTIFIED MAIL RETURN RECEIPT REQUESTED P 302 450 742

FIRST CLASS POSTAGE PREPAID

STATE OF CONNECTICUT  
DEPARTMENT OF HEALTH SERVICES

In Re: Dept. of Health Services  
vs.  
Everett Bradway, Jr.

To: Everett Bradway, Jr.  
188 West Stafford Road  
Stafford Springs, CT 06076

RECEIVED

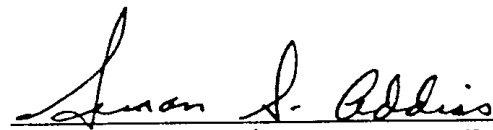
MAY 25 1993

DIVISION OF MEDICAL QUALITY  
ASSURANCE  
DEPT. OF HEALTH SERVICES

Ct# 003162  
Pet# 1992 0313 033 002 FINAL MEMORANDUM OF DECISION

In accordance with Connecticut General Statutes Section 4-179,  
the attached Proposed Memorandum of Decision dated April 20, 1993  
by hearing officer Gordon T. Allen is hereby adopted as the final  
decision of the Commissioner of the Department of Health Services  
in this matter. A copy of the proposed memorandum of decision is  
attached hereto and incorporated herein.

May 24, 1993  
Date

  
Susan S. Addiss, MPH, MURs  
Commissioner  
Department of Health Services

cc: Atty. Richard Lynch, Assistant Attorney General  
Stephen A. Harriman, Bureau Chief  
Stanley K. Peck, Director, DMQA  
Donna Buntaine Brewer, Chief, PHHO

STATE OF CONNECTICUT  
DEPARTMENT OF HEALTH SERVICES

In Re:

Department of Health

April 20, 1993

v.

Everett Bradway, Jr., S. I.

MEMORANDUM OF RECOMMENDED DECISION

The undersigned was designated by the Commissioner of Health Services on January 20th, 1993 to serve as the Hearing Officer in the above-entitled matter.

On the aforesaid date, the Department issued a Notice of Hearing with a attached Two Count Statement of Charges to the Respondent, and had the foregoing served in hand by a sheriff on January 31, 1993. In such notice, a hearing on March 22nd, 1993 was initially established. That date was subsequently continued until March 30th, 1993 for the convenience of the undersigned.

On March 30th, 1993, the Respondent appeared pro se to defend against the charges as issued. The State appeared through counsel, Attorney Stephen Varney, presented evidence in support of its charges.

The findings of fact and conclusions hereinafter set forth are based on the evidence and testimony presented at the hearing, as well as the documents and material made part of the record. The hearing was conducted in accordance with Chapter 54 of the Connecticut General Statutes and the applicable Regulations of the Connecticut State Agencies (Public Health Code).

units (Infiltrator) leading to leaks in the system. As in the Colorado Drive property, the Town wrote the Respondent (July 9, 1991 - Exh. #5) demanding that he make arrangements to repair the system. In a similar vein, the Respondent ignored this demand.

The credible expert testimony of Mr. Jacobs was that it was the actions of the Respondent during backfilling while doing the site work and final grading that caused the damages cited.

The Department also produced as a witness Mr. Robert Scully, a Sanitary Systems Engineer employed by the Department of Health Services. Mr. Scully testified as to the regulatory requirement for subsurface sewage installers to repair and/or install corrections as needed to systems installed by them.

The Respondent filed no written response or answer to the Statement of Charges as required by the Regulations. However, the State did not press this issue. In his testimony, the Respondent offered varying reasons for his failure to respond to either of the Town's demands as set forth in Exhibits 5 and 8 respectively. However, the Respondent did not effectively dispute the claims by the State with respect to his responsibility for the damages described to 59 Colorado Drive and 91 Hickory Hill Drive.

The Respondent claimed that he felt that he was either not required to do repair work on systems installed by him after more than one (1) year from the date of completion, or that to do so was uneconomical. Apparently, based on the Respondent's own testimony, there were financial difficulties being experienced by the Respondent during and including the relevant time period herein. In

particular, he was unhappy with the financial arrangements and responsibilities imposed on him by the Town of Somers by virtue of their various contracts with him.

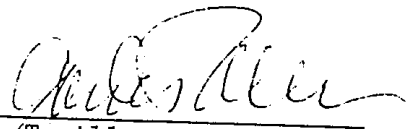
Be that as it may be, such claims do not constitute a valid legal defense to the claims of statutory violation asserted here by the State, even apart from the fact that the Respondent voluntarily entered into these contractual arrangements in the first place.

Therefore, I find that the State has established that the Respondent acted negligently in damaging, and then failing to repair, septic systems installed by him at 59 Colorado Drive (First Count) and 91 Hickory Hill Drive (Second Count), Somers, Connecticut.

#### RECOMMENDATION

I recommend that the Commissioner suspend the Respondent's subsurface sewage installer license (No. 3162) for a period of six months, or until an alternative civil penalty in the sum of FIVE HUNDRED (\$500.00) DOLLARS has been paid, whichever may occur earliest.

Respectfully submitted,

  
Gordon T. Allen  
Hearing Officer

Dated at Rocky Hill, Connecticut, this  
20th day of April, 1993.



## STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES

BUREAU OF HEALTH SYSTEM REGULATION

27 December 1993

Everett Bradway  
188 West Stafford Road  
Stafford Springs, CT 06076

Re: Petition NO. 920313-33-002

Dear Mr. Bradway:

1993  
Your eligibility for reinstatement from suspension to probation has been reviewed and your license is being returned to you. This Department's Licensure and Renewal Section will be notified to change your licensure status effective November 24, 1993.

Renewal of your license is required, by law, annually during the month of your birth following the date of this letter. If your license is not renewed within ninety days of the due date, it will become automatically void. This means future reinstatement will require re-application.

State law requires you to notify this office within (30) days of ANY change in address whether in or out of state. Should you have any questions regarding this process contact this Department at 566-1259.

Thank you for your anticipated cooperation.

Very truly yours.

A handwritten signature in cursive script, appearing to read "Lynne Hurley".

Lynne Hurley  
Investigator  
Public Health Hearing Office

LAH/lah  
9036Q/19

cc: Donna Buntaine Brewer, Chief, PHHO  
John Boccaccio, Chief, L and R